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Certificate of Mailing/Transmission (37 C.F.R. § 1.8(a)):

[X] Pursuant to 37 C.F.R. § 1.8, I hereby certify that this paper and all enclosures are being deposited with the United States Postal Service as first class mail on the date indicated below in an envelope addressed to the Assistant Commissioner for Patents, Washington D.C. 20231.

[] Pursuant to 37 C.F.R. § 1.6(d), I hereby certify that this paper and all enclosures are being sent via facsimile on the date indicated below to the attention of Examiner _____ at Facsimile No. _____ at _____ a.m./p.m.

Dated: April 16, 2002

Name of Person Certifying: Nancy Hine
Printed Name: Nancy Hine

TECH CENTER 1600/2900

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | | |
|--------------|---|-----------------|----------------|
| Applicant: | Carl Alexander Kamb | Assignee: | Deltagen, Inc. |
| Filing Date: | August 23, 2001 | Examiner: | Not Assigned |
| Serial No.: | 09/935,929 | Group Art Unit: | Not Assigned |
| Title: | Methods for Identifying, Characterizing and Evolving Cell-Type Specific CIS Regulatory Elements | | |

Assistant Commissioner for Patents
Washington, D.C. 20231

INFORMATION DISCLOSURE STATEMENT

Sir:

In accordance with 37 C.F.R. § 1.56, the references listed on the attached Form PTO-1449 are being brought to the attention of the Examiner for consideration in connection with the examination of the above-identified patent application.

I. Timing of the Information Disclosure Statement:

This Information Disclosure Statement is filed:

- ☐ With the new patent application submitted herewith (37 C.F.R. § 1.97(a)).
- ☐ Within three months after the filing date of the application or within three months after the date of entry of the national stage of a PCT application as set forth in 37 C.F.R. § 1.491.
- ☒ Before the mailing date of a first Office action on the merits. In the event, however, that an Office Action has crossed in the mail with this Information Disclosure Statement, the Commissioner is hereby authorized to charge Deposit Account No. 50-1193 for any fees required pursuant to 37 C.F.R. §§ 1.17(p) or 1.17(i)(1).

This Information Disclosure Statement is filed:

- ☐ After the first Office Action and more than three months after the application's filing date; or PCT national stage date of entry filing but, as far as is known to the undersigned, prior to the mailing date of either a final rejection or a notice of allowance, whichever occurs first, and the Commissioner is hereby authorized to charge Deposit Account No. [] for the fee (\$180) set forth in 37 C.F.R. § 1.17(p) and any additional required fees.

This Information Disclosure Statement is filed:

- ☐ After the mailing date of either a final rejection or a notice of allowance, whichever occurred first, and is accompanied by the fee (\$180.00) set forth in 37 C.F.R. § 1.17(i)(1) and a certification as specified in 37 C.F.R. § 1.97(e), as checked below. This document is to be considered as a petition requesting consideration of the Information Disclosure Statement.

The undersigned certifies that:

- ☐ Each item of information contained in the Information Disclosure Statement was cited in a communication mailed from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this information disclosure statement.
- ☐ No item of information contained in this information disclosure statement was cited in a communication mailed from a foreign patent office in a counterpart foreign application or, to the knowledge of the undersigned after making reasonable inquiry, was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement.

II. Copies of the Cited Items:

- ☐ Copies of all of the items listed on the attached Form PTO-1449 are enclosed.
- ☐ Copies of only the following items listed on the attached Form PTO-1449 are enclosed: _____.
- ☒ Copies of those items which are marked with an asterisk (*) in the attached Form PTO-1499 are not supplied because they were previously cited by or submitted to the Patent Office in a prior Application No. 09/320,080, filed May 26, 1999 and relied upon in this application for an earlier filing date under 35 U.S.C § 120. See 37 C.F.R. § 1.98(d).;
- ☒ Copies of those items which are marked with a double asterisk (**) are not supplied because they were previously cited by or submitted to the Patent Office in a prior Application No. 08/812,994, filed July 16, 1998, now patent

No. 5,955,275, issued September 21, 1999 and relied upon in this application for an earlier filing date under 35 U.S.C § 120. See 37 C.F.R. § 1.98(d).

- ☐ Copies of those items which are marked with a triple asterisk (***) in the attached Form PTO-1499 were cited in a foreign examination report in a related case. A copy of the search report and the cited references not already of record in this application are attached hereto.

III. Concise Explanation of Relevance:

- ☒ A concise explanation of relevance of the items listed on Form PTO-1449 is not given.
- ☐ A concise explanation of relevance of the items listed on Form PTO-1449 is in the form of an English language copy of a Search Report from a foreign patent office, issued in a counterpart application, which refers to the relevant portions of the references (copy attached).

IV. Conclusion:

Citation of the above documents shall not be construed as:

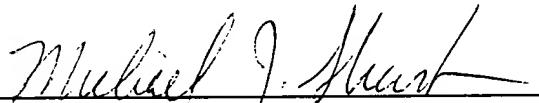
1. an admission that the documents are necessarily prior art with respect to the instant invention;
2. a representation that a search has been made, other than as described above; or
3. an admission that the information cited herein is, or is considered to be, material to patentability as defined in § 1.56(b).

It is respectfully requested that the Examiner indicate consideration of the cited references by returning a copy of the attached form PTO 1449 with initials or other appropriate marks.

The Commissioner is hereby authorized to charge Deposit Account No. 50-1193 Docket No. 20410-7001 for any additional fees required in connection with the filing of this Information Disclosure Statement.

DATE: April 16, 2002

Respectfully submitted,

By: 
Michael J. Shuster, Ph.D.
Registration No.: 41,310

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FORM PTO-1449 (Modified)

LIST OF PATENTS AND PUBLICATIONS FOR
APPLICANT(S)' INFORMATION DISCLOSURE
STATEMENT

(Use several sheets if necessary)

ATTY. DOCKET NO.

20410-7001 US

SERIAL NO.

09/935,929

APPLICANT

Kamb

FILING DATE

August 23, 2001

GROUP ART UNIT:

Not Assigned

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REFERENCE DESIGNATION U.S. PATENT DOCUMENTS

| EXAM'R INITIAL | | DOCUMENT NUMBER | DATE | NAME | CLASS | Subclass | Filing Date f Appropriate |
|-------------------|------|--------------------|----------|-----------------|-------|----------|---------------------------------|
| | *A1 | 5,401,629 | 03/28/95 | Harpold et al. | | | |
| | **A2 | 5,217,889 | 06/08/93 | Roninson et al. | | | |
| | *A3 | 5,691,137 | 11/25/97 | Rosbash et al. | | | |

FOREIGN PATENT DOCUMENTS

| EXAM'R INITIAL | | DOCUMENT NUMBER | DATE | COUNTRY | CLASS | Subclass | TRANSLAT'N | |
|-------------------|----|-----------------|------|---------|-------|----------|------------|----|
| | | | | | | | yes | no |
| | B1 | | | | | | | |
| | B2 | | | | | | | |
| | B3 | | | | | | | |

OTHER ART (Include Author, Title, Date, Pertinent Pages, etc.)

| | |
|------|--|
| **C1 | Anderson M.T., Tjioe I.M., Lorincz M.C., Parks D.R., Herzenberg L.A., Nolan G.P., Herzenberg, "Simultaneous Fluorescence-Activated Cell Sorter Analysis of Two Distinct Transcriptional Elements Within a Single Cell Using Engineered Green Fluorescent Proteins," L.A., <i>Proc. Natl. Acad. Sci. (USA)</i> 93: 16, 8508-8511 (1996) |
| *C2 | Badia, E., Duchesne, M.J., Pons, M., and Nicolas, J.C., "Membrane Targeting of Firefly Luciferase: A New Bioluminescent Reporter Gene, <i>Analytical Biochemistry</i> 217, 333-335 (1994) |
| **C3 | Dorsky, David I., et al., "Detection of HIV-1 Infection with a Green Fluorescent Protein Reporter System", <i>Journal of Acquired Immune Deficiency Syndromes and Human Retrovirology</i> , Lippincott-Raven Publishers, Philadelphia, Vol. 13, pp. 308-313 (1996) |
| **C4 | Duchange N., Ochoa A., et al., Identification of an Enhancer Involved in the Melanoma-specific Expression of the Tumor Antigen Melanotransferrin Gene," <i>Nucleic Acids Res.</i> 20: 2853-2859 (1992) |
| **C5 | Fuse N., Yasumoto K., et al., Identification of a Melanocyte-Type Promoter of the Microphthalmia-Associated Transcription Factor Gene," <i>Biochem. Biophys. Res. Commun.</i> 219: 702-707 (1996) |
| **C6 | Gervais, Alain, et al., "A New Reporter Cell Line to Monitor HIV Infection and Drug Susceptibility <i>in vitro</i> ", <i>Proc. National Academy of Science</i> , Vol. 94, pp. 4653-4658 (April 1997) |
| **C7 | Hagen D.C., McCaffrey G., Sprague G.F. Jr., "Pheromone Response Elements Are Necessary and Sufficient for Basal and Pheromone-Induced Transcription of the FUS1 Gene of <i>Saccharomyces cerevisiae</i> ," <i>Mol. Cell Biol.</i> 11: 6, 2952-61 (1991) |
| **C8 | Herskowitz I., "Functional Inactivation of Genes by Dominant Negative Mutations," <i>Nature</i> 329: 219-222 (1987) |
| *C9 | Li, Joachim J., and Herskowitz, Ira, "Isolation of ORC6, a Component of the Yeast Origin Recognition Complex by a One-Hybrid System," <i>Science</i> , Vol. 262, 17 December 1993 |
| *C10 | Kam-Leung, M., et al., "Examination of Mammalian Basic Helix-Loop-Helix Transcription Factors Using a Yeast One-Hybrid System," <i>DNA and Cell Biology</i> , 15:1, pp. 1-8, (1996) |

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| **C11 | Kavathes P., Sukhatme V.P., <i>et al.</i> , Isolation of the Gene Encoding the Human T-lymphocyte Differentiation Antigen Leu-2 (T8) BY Gene Transfer and Cdna Subtraction," <i>Proc. Natl. Acad. Sci. (USA)</i> 81: 7688-7692 (1984) |
| **C12 | Lewin B, <i>Genes V</i> , Chapter 29, Building the Transcription Complex: Promoters, Factors, and RNA Polymerases," Oxford University Press, Oxford, U.K. (1994), pp. 847-877. |
| *C13 | Luo Ying, et al., "Cloning and Analysis of DNA-Binding Proteins by Yeast One-Hybrid and One-Two-Hybrid Systems," <i>BioTechniques</i> , 20:4, pp. 564-568 (April 1996) |
| *C14 | Marcus, Sandra L., "Identification of COUP-TFII as a peroxisome proliferator response element binding factor using genetic selection in yeast: COUP-TFII activates transcription I yeast but anatagonizes PPAR signaling in Mammalian cells," <i>Molecular and Cellular Endocrinology</i> 120:31-39 (1996) |
| *C15 | Qin Z., Kruger-Krasagakes S., <i>et al.</i> , "Expression of Tumor Necrosis Factor by Different Tumor Cell Lines Results Either in Tumor Suppression or Augmented Metastasis," <i>Exp. Med.</i> 178: 355-360 |
| **C16 | Serrano M., Hannon G.J., <i>et al.</i> , "A New Regulatory Motif in Cell-Cycle Control Causing Specific Inhibition of Cyclin D/CDK4," <i>Nature</i> 366, 704-707 (1993) |
| **C17 | Shibata K., Muraosa Y., <i>et al.</i> , "Identification of a cis-Acting Element that Enhances the Pigment Cell-specific Expression of the Human Tyrosinase Gene," <i>J. Biol. Chem.</i> 267: 20584-20588 (1992) |
| *C18 | Valdivia, Raphael H., and Falkow, Stanley, "Fluorescence-Based Isolation of Bacterial Genes Expressed Within Host Cells," <i>Science</i> , Vol. 277, 26 September 1997. |
| *C19 | Wang, Michael J., et al., "Molecular cloning of the olfactory neuronal transcription factor Olf-1 by genetic selection in yeast," <i>Nature</i> , 364:121-126 (July 8, 1993) |
| **C20 | Yokoyama K., Yasumoto K., <i>et al.</i> , "Cloning of the Human DOPAchrome Tautomerase/Tyrosinase-related Protein 2 Gene and Identification of Two Regulatory Regions Required for its Pigment Cell-specific Expression," <i>J. Biol. Chem.</i> 269: 27080-27087 (1994) |
| *C21 | Zou, Yimin, Evans, Sylvia, Chen, Ju, Kuo, Hai-Chien, Harvey, Richard P., and Chien, Kenneth R., "CARP, a cardiac ankyrin repeat protein, is downstream in the Nkx2-5 homeobox gene pathway," <i>Development</i> 124, 793-804 (1997) |

EXAMINER

DATE CONSIDERED

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance *and* not considered. Include copy of this form with next communication to Applicant(s).